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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/451,319

11/30/1999

ROBERT M. MOORE JR.

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EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT

PAPER NUMBER

1616

MAIL DATE

DELIVERY MODE

12/07/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 09/451,319</p>	<p>Applicant(s) MOORE ET AL.</p>	
	<p>Examiner ALTON N. PRYOR</p>	<p>Art Unit 1616</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Alton N. Pryor/
Primary Examiner, Art Unit 1616

Continuation of 11. does NOT place the application in condition for allowance because: Applicants argue that neither Goodenough nor Dallmier make obvious the bromating agent required in the instant invention. The Examiner argues that while neither reference uses BrCl as the bromine source, the instant invention employs molecular bromine rather than BrCl as the bromine source. Note, instant invention like Goodenough uses molecular bromine as the bromine source.

Applicants argue that Dallmier teaches against the bromating agents used by Goodenough. While it is true that Dallmier teaches that Goodenough uses elemental bromine, the Examiner argues that Goodenough does not say that the bromine taught in Goodenough is elemental bromine.

Applicants argue that the ordering of steps is critical in Dallmier and different from the ordering recited in the instant claims. The Examiner argues that instant invention provides no unexpected results for the instant ordering of steps. Claims recite no step of increasing the pH of a final solution. The instant claims set forth a uniform pH of about 12 to about 14 throughout the process. Note, Dallmier was used primarily to disclose a process that "improves on the Goodenough et al. reference by means of a safer, easier, and more economical process." (column 2 lines 45-47 As confirmed by Moore's expert, Dallmier makes obvious that a sulfamic acid stabilized hypobromite such as N-bromosulfamate may be stored in a high pH solution which ranges from about 8 to about 14 with minimal carcinogen bromate formation (column 3 line 28 -30, column 4 lines 47-49, column 9 line 65 - column 10 line 60). Hence, an artisan would have been motivated to combine the teachings of Goodenough and Dallmier. It would have been obvious to modify Goodenough's process to include a step of increasing the pH of the final solution to 12-14 as indicated in Dallmier in order to minimize the formation of the suspected carcinogen bromate during storage, thus arriving at a method encompassed by Moore's claims 61-65. Although the claims do not include a step to obtain the pH of 12-14, the pH recited in the claims is about 12-14 which is suggested to be safe according to Dallmier in terms of the level of carcinogen bromate. For this reason it would have been obvious to modify Goodenough's solution to have a pH ranging from about 12-14.

Goodenough and Dallmier do not suggest continuous feeding of bromine and aqueous alkali metal sulfamic salt solution at a pH of at least about 12 into an apparatus and withdrawing product from the apparatus to enable continuous feeding. The references do not suggest continuous, but alternate withdrawing from two reaction vessels the aqueous solution at a sufficient rate to maintain a continuous stream of the aqueous solution at a pH of at least about 12. The Examiner argues that these are typical and standard implementations made in the operation of pilot and commercial processes.

In addition to the rejection on record, the above argument is additional reasons for maintaining the rejection of record.